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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
VAN HANDEL, MICHAEL P	
ART UNIT	**PAPER NUMBER**
2623	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/017,377	YASSIN ET AL.	
	Examiner	Art Unit	
	Michael Van Handel	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 November 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/22/2006 has been entered.

Response to Amendment

1. This action is responsive to an Amendment filed 11/22/2006. Claims **1-18** are pending. Claims **1, 2, 11, 12, 16, 18** are amended.

Response to Arguments

1. Applicant's arguments regarding the examiner's interpretation of claim terms, filed 11/22/2006, have been fully considered, but they are not persuasive.

2. Applicant's arguments with respect to claim **9**, filed 11/22/2006, have been considered, but are moot in view of the new ground(s) of rejection.

Regarding the term "vault," the applicant argues that the examiner misconstrues the specification with respect to the term "vault." The examiner respectfully disagrees. As noted by the applicant, the applicant's specification states:

> The receiver 4 may optionally operate in conjunction with a vault 7. The purpose of the vault is to provide for storage of information about the outcome of each auction. The vault may be implemented as a component within the receiver 4 itself, or may be a separate and distinct unit. The vault may upload the rewards stored therein to a billing agent or its equivalent. This upload may take place on a regular basis, such as monthly, weekly, or even daily. The billing service would take care of transferring the reward from the commercial provider's account.

As noted in the Advisory Action mailed 10/30/2006, the examiner fails to find a recitation of "data vaulting" in the applicant's specification. The examiner further notes that Robinson discloses that "whenever a bid is won, a record of the ad and bid amount ... is sent via a TCP/IP socket connection to the server ..." (p. 2, paragraph 30). That is, Robinson discloses storing a record of the ad and bid amount in a server. Thus, the examiner maintains that Robinson meets the limitation of "storing information related to the commercial having the agent which placed the winning bid in a vault," as currently claimed.

Regarding the term "agent," the applicant argues that the examiner misconstrues the specification with respect to the term "agent." The examiner respectfully disagrees. The applicant's specification states:

> "... each commercial has an associated agent which is responsible for the formulation of an actual bid price. The agent may be *as simple as a fixed bid price*, or a more complex computer software applet" (italicized for emphasis)(p. 6, l. 21-22).

The examiner further directs the applicant to MPEP 2111, which states:

> During patent examination, the pending claims must be "given their broadest reasonable interpretation consistent with the specification." >The Federal Circuit's en banc decision in Phillips v. AWH Corp., 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005) expressly recognized that the USPTO employs the "broadest reasonable interpretation" standard:
>
> The Patent and Trademark Office ("PTO") determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction "in light of the specification as it would be interpreted by one of ordinary skill in the art." In re Am. Acad. of Sci. Tech. Ctr., 367 F.3d 1359, 1364[, 70 USPQ2d 1827] (Fed. Cir. 2004). Indeed, *the rules of the PTO require that application claims must "conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description.*" 37 CFR 1.75(d)(1). (italicized for emphasis).

Thus, the examiner maintains that the agent may be as simple as a fixed bid price, as described in the applicant's specification. Regardless, the examiner notes that Robinson describes agents as software algorithms from advertisers, which are executed in a local ad-targeting agent environment (p. 1, paragraph 9). Thus, the examiner maintains that Robinson meets the

limitation of an agent and that the combination of Robinson and Zigmond et al. teaches the limitation of an agent, as claimed.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims **2**, **3**, **12**, and **13** are rejected under 35 U.S.C. 102(e) as being anticipated by Robinson.

Referring to claims **2** and **12**, Robinson discloses a method of/system for presenting a commercial in a time slot to a viewer, the method comprising the steps of:

- providing one or more commercials to a receiver operatively coupled with a display device (p. 8, paragraph 124), each commercial having an agent associated therewith (p. 1, paragraph 9), the agent for each commercial configured to place a bid for the time slot on behalf of the associated commercial (p. 1, paragraph 16);
- auctioning the time slot to the one or more agents provided to the receiver (p. 1, paragraph 11 & p. 3, paragraph 42);
- selecting at least one selected commercial having the agent, which placed a winning bid (p. 3, paragraph 43); and

- displaying the selected commercial having the agent, which placed the winning bid during the time slot (p. 3, paragraph 43), further comprising the step of storing information related to the commercial having the agent, which placed the winning bid in a vault (p. 2, paragraph 30 & p. 6, paragraph 92).

Referring to claims **3** and **13**, Robinson discloses the method/system of claims 2 and 12, respectively, further comprising the step of allowing the agent for at least one commercial to access the information in the vault, the agent using the accessed information to determine the bid to be placed for the time slot (the examiner notes that in determining the appropriate bid, the agent has access to bidding results)(p. 6, paragraphs 86, 92).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims **1**, **4-8**, **10**, **11**, and **14-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Robinson in view of Zigmond et al.

Referring to claims **1**, **11**, and **18**, Robinson discloses a method of/system for presenting a commercial in at least one time slot to a viewer, the method comprising the steps of:

- providing one or more commercials to a receiver operatively coupled with a display device (p. 8, paragraph 124), each commercial having an agent associated therewith

(p. 1, paragraph 9), the agent for each commercial configured to place a bid for the time slot on behalf of the associated commercial (p. 1, paragraph 16);

- providing content including the time slot separately from the commercials (the examiner notes that the agents are sent from the advertisers' servers to the agent environment supplier's servers and on to the agent environments running on the users' machines, while television content is provided by a television provider and Internet content may be supplied from many different sources)(p. 1, paragraph 9; p. 3, paragraph 42; & p. 8, paragraph 130);
- maintaining a profile database to store data related to local viewer preferences and allowing the agent for at least one commercial to access the local viewer preference related data in the profile database, the agent using the accessed local viewer preference related data to determine the bid to be placed for the time slot (p. 1, paragraphs 5, 6, 10 & p. 6, paragraphs 89-91, 94);
- auctioning the time slot to the one or more agents provided to the receiver (p. 1, paragraphs 11 & p. 3, paragraph 42);
- selecting at least one selected commercial having the agent which placed a winning bid (p. 3, paragraph 43); and
- locally to the receiver, combining the content with the select commercial (p. 1, paragraph 11 & p. 3, paragraph 43),
- displaying the commercial during the time slot, so that the commercials appear to be part of the content (the examiner notes that ads can be displayed as banner ads on a

Web page or as full-screen ads on an interactive television)(p. 3, paragraphs 42, 43); and

- storing information related to the commercial having the agent, which placed the winning bid in a vault (p. 2, paragraph 30 & p. 6, paragraph 92).

Robinson further discloses use of the system to display ads on an interactive television (p. 3, paragraph 42 & p. 9, paragraph 144). Robinson does not specifically disclose locally combining advertisements with broadcast television programming that has been received wirelessly, so that the commercials appear to be part of the wirelessly broadcast television programming. Zigmond et al. discloses a system and method for selecting and inserting advertisements into a video programming feed at the household level (Abstract). A conventional video programming feed received via satellite is displayed to a viewer (col. 7, l. 2-9). Either before or during the display of the video programming feed to the viewer, a plurality of advertisements is received by the home entertainment system separately from the video programming feed. The received advertisements are either displayed immediately or at a later time and are displayed based on advertisement rules and parameters created by the advertiser (col. 4, l. 15-24, 38-40; col. 8, l. 12-37; col. 12, l. 1-24; & col. 18, l. 11-28). Zigmond et al. also discloses that at the appropriate time indicated by a triggering event, the advertisement originally carried on the video programming feed is effectively overwritten with the selected advertisement, and upon termination of the advertisement, the video programming feed is again displayed to the viewer (col. 4, l. 45-52). The examiner interprets this functionality as resulting in inserted advertisements that appear to be part of the wirelessly broadcast television programming. It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the full-screen

interactive television advertising system and method of Robinson to include locally combining television ads with television programming received via satellite, such as that taught by Zigmond et al. in order to provide existing content providers with an improved system for directing television advertisements to interested viewers at a local level (Zigmond et al. col. 3, l. 61-67).

Referring to claims **4-6** and **14**, the combination of Robinson and Zigmond et al. teaches the method of claim 1, further comprising the steps of:

- maintaining a profile database to store data related to local viewer preferences, including demographic information and viewing habit information, and allowing the agent for at least one commercial to access the local viewer preference related data in the profile database, the agent using the accessed local viewer preference related data to determine the bid to be placed for the time slot (Robinson p. 1, paragraphs 5, 6, 10; & p. 6, paragraphs 89-91, 94).

Referring to claim **7**, the combination of Robinson and Zigmond et al. teaches the method of claim 1, wherein the bid placed by the agent of at least one commercial is a fixed amount (Robinson p. 10, paragraph 157).

Referring to claim **8**, the combination of Robinson and Zigmond et al. teaches the method of claim 1, wherein the winning bid awarded by the awarding step is the bid having the highest monetary value (Robinson p. 1, paragraph 15).

Referring to claims **10** and **15**, the combination of Robinson and Zigmond et al. teaches the method/system of claims 1 and 11, respectively, wherein the commercial delivery step includes loading at least one commercial and the agent associated therewith onto the television receiver prior to the time slot (Robinson p. 3, paragraph 46 & p. 8, paragraph 124).

Referring to claim **16**, Robinson discloses a system for presenting a commercial in a time slot to a viewer, the system comprising:

- at least one source of one or more commercials and one or more agents, each said commercial having an agent associated therewith (p. 1, paragraph 9 & p. 8, paragraph 124), the agent for each commercial configured to place a bid for the time slot on behalf of the associated commercial (p. 1, paragraph 16);
- a receiver operatively coupled with a display device, said receiver configured to receive each commercial and associated agent (p. 8, paragraph 124); and
- a processor operatively coupled with the receiver, the processor capable of:
    - executing instructions encoded by the agent associated with each commercial to determine the bid to be placed for the time slot (p. 7, paragraph 118);
    - auctioning the time slot to the one or more commercials provided to the receiver (p. 1, paragraph 11 & p. 3, paragraph 42);
    - selecting the commercial having the agent, which placed a winning bid and
    - displaying the selected commercial on the display device during the time slot (p. 2, paragraph 30 & p. 6, paragraph 92).

Robinson does not specifically disclose that the receiver is configured to receive the commercial and the agent associated therewith simultaneously. Zigmond et al. discloses an ad insertion device 80, which receives ad selection rules and parameters and advertisements. The advertisements to display are chosen based on viewer characteristics and/or rules and parameters set by advertisers (col. 11, l. 31-67; col. 12, l. 1-24, 44-67; col. 13, l. 1-28; & col. 14, l. 35-65). Zigmond et al. further discloses that the advertisement rules and parameters are delivered at the

same time as the advertising feed (col. 12, l. 25-32). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the system for selecting advertisements for display disclosed by Robinson to include delivering the criteria for selecting advertisements at the same time as delivering the advertising feed, such as that taught by Zigmond et al. in order to easily correlate data with its associated parameters.

Referring to claim **17**, the combination of Robinson and Zigmond et al. teaches the system of claim 11, wherein the receiver is configured to receive the commercial and agent associated therewith separately (Robinson Fig. 4).

3. Claim **9** is rejected under 35 U.S.C. 103(a) as being unpatentable over Robinson in view of Zigmond et al. and further in view of Vetter et al.

Referring to claim **9**, the combination of Robinson and Zigmond et al. teaches the method of claim 1. Robinson further discloses the use of the Vickrey auction and notes that there are many other approaches to auctioning off a resource, which are well known to practitioners of ordinary skill in the arts of economics and game theory, that could be used with the disclosed approach (p. 5-6, paragraphs 83-84). The combination of Robinson and Zigmond et al. does not teach a method, wherein the winning bid awarded by the awarding step is determined by setting a desired monetary value, and then reducing the desired monetary value until the agent of at least one commercial places a bid at least equal to the desired monetary value. Vetter et al. auctioning off resources electronically by automating auctions through the use of intelligent agents (Abstract & Introduction). The agents are responsible for the bidding process of the auction (3.2 Agents and Auctions). Vetter et al. also discloses using a Dutch auction to auction off the

resources. With this type of auction, bidding starts at an extremely high price and is progressively lowered until a buyer claims an item by calling the price (3.1 Auction Types; 5. The CASBA Auction Module; & 5.3 Bidding and Bid Processing). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the Vickrey auctioning method of Robinson in the combination of Robinson and Zigmond et al. to use the Dutch auction approach to auctioning off resources, such as that taught by Vetter et al. in order to auction goods quickly.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Van Handel whose telephone number is 571-272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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